

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

VICKI WALTON,
Plaintiff,

v.

U.S. BANK, NA, et al.,
Defendants.

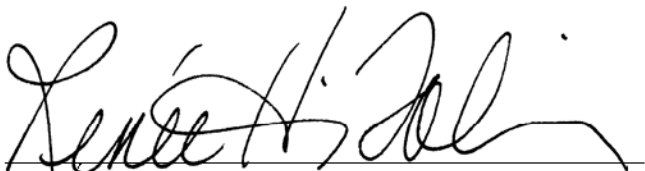
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CASE NO. 3:15-CV-3191-N-BK

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to *Special Order 3*, this case was referred to the magistrate judge for pretrial management. The Court now considers Plaintiff's *First Motion to Remand*. [Doc. 13](#). Defendants removed this matter from state court to this court based on diversity jurisdiction. [Doc. 1](#). Plaintiff subsequently filed an *Amended Complaint*, purporting to name a non-diverse defendant which would destroy diversity. [Doc. 12](#). The undersigned issued an order striking the *Amended Complaint* from the record because it was filed outside the time frame for amending a complaint as a matter of course pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. Doc. 14. Accordingly, the non-diverse defendant is not a party to this case, and jurisdiction properly remains in this Court. Therefore, it is recommended that Plaintiff's *First Motion to Remand*, [Doc. 13](#), be **DENIED**.¹


SO RECOMMENDED on March 4, 2016.


RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE

¹ It is not settled whether a magistrate judge has the authority to deny a motion for remand in a non-consent case.

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of this report and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).


RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE